



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 30, 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM □

SUBJECT: Environmental Justice News for April 17 - April 30, 2004

FROM: Nicholas Targ, Counsel
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This summarizes environmental justice news for April 17, 2004, through April 30, 2004. Except as noted, this review is confined to Lexis/Nexis queries conducted under the following search: “(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/50 minorit! or low***income) or (executive order 12898) or (civil right! w/50 environmental)”. Please note that we have not included multiple articles covering the same topic.

For the period ending April 30, 2004, the following news is current:

A. News–

1. Kathleen A. Shaw, “Church to plant trees in poor neighborhoods,” Telegram and Gazette, Worcester, Massachusetts (April 30, 2004).

The United Church of Christ (UCC) and its 430 member churches initiated a program to plant trees in low-income areas in Massachusetts. The new initiative, “The Mass Releaf Ministry,” is a collaboration joined by the Department of Conservation and Recreation and United States Representative James P. McGovern. The UCC, represented by Rev. Paul B. Nickerson, stated, “This program is about environmental justice. Trees make a huge difference in the environment in terms of aesthetics, providing cooling shade and cleaning the air.”

2. “The Digest,” Birmingham News, Birmingham, Alabama (April 29, 2004).

A panel discussion at the Birmingham Civil Rights Institute featured Rev. Fred Shuttlesworth and Rev. Matthew Fox. The discussion focused on the intersection between creation, spirituality, social justice and environmental justice. "There is racism and classism involved in ecological destruction. Hazardous waste sites and industrial facilities with toxic chemicals and pollution tend to be located near poor minority communities in Alabama and elsewhere," Fox is reported as saying.

3. Dina Cappiello, "Honored environmental activist offers lessons for Port Arthur," Houston Chronicle, Houston, Texas (April 22, 2004).

Margie Richard, former middle school health and physical education teacher and founder of Concerned Citizens of Norco, became the first African American in North America to win the Goldman Environmental Prize. The annual award honors grassroots activists from around the world. "In 1989, Richard started knocking on Shell's door, forming Concerned Citizens of Norco. Her crusade paid off more than a decade later, when Shell relocated Richard and 200 of her neighbors, installed air monitors, and agreed to cut its pollution by a third," the article states.

4. "The Pat Brown Institute of Public Affairs Will Honor Sen. Feinstein, Rep. Solis and Community Advocate 'Hank' Lacayo at Its 23rd Annual Awards Dinner," PR Newswire, (April 22, 2004).

The article reports, "The Edmund G. "Pat" Brown Institute of Public Affairs will honor U.S. Sen. Dianne Feinstein, U.S. Rep. Hilda Solis, and labor leader and community activist Henry "Hank" Lacayo April 30 at its 23rd Annual Awards Dinner at the Millennium Biltmore Hotel." Representative Solis was acknowledged for her pioneering work on environmental justice issues in California.

5. Tavis Smiley, "Jacob Moatshe and Heetan Kalan talk about their activism and efforts for improvement in South Africa," National Public Radio, (April 29, 2004).

The transcript of the radio program reports on the Oukasie Development Trust's (ODT) effort to improve public health and social infrastructure in South Africa, using a collaborative problem solving approach. "ODT has partnered with Groundwork USA and Groundwork South Africa an environmental justice organizations to address the legacy of apartheid on the environmental front," according to the transcript. The group has worked on "public health issues by teaching communities how to access the developing health care system and how to build stronger community infrastructures through public partnership programs."

6. "Earth Day passion still worth it," The Cincinnati Enquirer, Cincinnati, Ohio (April 22, 2004). [NT/MA NOTE: See related litigation summary C.1]

Residents of the Winton Hills community object to a proposed waste transfer station that would be located near an existing landfill in their neighborhood. The article reports, "Only this week, an Ohio environmental appeals board in Columbus rejected a 2002 Cincinnati Board of Health decision that blocked a garbage transfer station in Winton Hills. Two years ago the Board of Health and the City agreed with residents that they had an unfair share and blocked a license for the transfer station." The article states, "The state board has ruled in favor of Waste Management, and noted that Ohio lacks an environmental justice law. The issue is likely to be appealed in court."

B. Legislative/Regulatory–

1. Senator Thomas Daschle (D-SD), “National Minority Cancer Awareness Week,” 150 Cong Rec S 4673 (April 29, 2004).

Addressing issues of health vulnerabilities faced by people of color, Senator Daschle stated, “Minority communities are more frequently exposed to environmental risks, such as polluted industrial areas, cheap older housing with lead paint, or asbestos-laden water pipes.”

2. S. 2350, “Long Island Sound Stewardship Act of 2004,” introduced by Senator Joseph Lieberman (D-CT) on April 27, 2004.

The bill would establish the "Long Island Sound Stewardship Coordinating Committee," which would engage in planning and grant making activities. “Environmental justice” would be among the criteria the Committee would use to consider actions.

3. Representative Hilda Solis (D-CA), “Earthday,” 150 Cong Rec H 2343 (April 22, 2004).

Representative Solis gave an Earthday address in which she described the importance of environmental justice to her district. She also identified the increased attention that states are giving to the issue noting, that “there are close to 30 States now in this Union that have done likewise and have followed suit [with California’s environmental justice legislation].” Representative Solis criticized the administration’s treatment of the issue, saying “It is unfortunate, however, that this administration here does not believe in the true essence of environmental justice. And what environmental justice means for many Americans and for people that I represent is equal treatment under the law when placing projects in our districts.”

4. H. R. 4215, "Community Environmental Equity Act," Introduced by Representative Nydia Velazquez (D-NY) on April 22, 2004.

Among other things, this bill would amend the Public Health Service Act to prohibit disproportionate impact discrimination with respect to exposure to a broadly defined group of “hazardous substances.”

5. Pennsylvania, “Environmental Justice Public Participation Policy,” 34 Pa. Bull. 2237 (April 24, 2004).

“This policy implements the public participation recommendations of the Environmental Justice Work Group June 2001 report... The guidance addresses how the Department will consider comprehensive plans and generally consistent zoning ordinances when reviewing grant applications for facilities or infrastructure development.” Interested persons may submit written comments on the draft technical guidance document, #012-0200-002, by May 24, 2004.

Contact: Marcus Kohl, (717) 783-5630, mkohl@state.pa.us. The policy is available on line at the following address

<<http://www.dep.state.pa.us/hosting/environmentaladvocate/documents.htm>>

C. Litigation–

1. Waste Management of Ohio, Inc., v. City of Cincinnati, Communities United for Action, Appellee-Intervenor, 2004 Ohio ENV LEXIS 3 (Ohio Environmental Board of Review, March 25, 2004).

The Ohio Environmental Board of Review Commission vacated the Cincinnati Board of Health's denial of a solid waste operating license. Among other things, the Board of Review excluded evidence pertaining to issues of environmental justice on the motion of the Appellant company. The Ohio Commission observed, in a footnote, “Environmental justice is a concept which acknowledges that frequently facilities such as the one at issue are sited in poor or minority communities and that, therefore, the prevalence of hazardous pollutants in these communities is unjust. The concept focuses attention on questions of whether certain communities or groups, defined by their race/ethnicity, socioeconomic and/or political access, bear a disproportionate burden of environmental hazards. There is no specific environmental justice law in Ohio, and the Board of Health was so advised by their counsel; that is, environmental justice concerns could not form a basis for a lawful denial of a license for a transfer station. In this regard, prior to hearing, the Commission granted Appellant's Motion in *Limine* which requested that evidence relative to environmental justice be excluded from the *de novo* hearing.”

2. Longview Power, LLC, W. VA Service Comm'n CASE NO. 03-1860-E-CS-CN, 2004 W. Va. PUC LEXIS 1769 (April 20, 2004).

The Commission denied the applicant's petition to strike testimony of a citizens' group, “Concerned Citizens,” relating to air pollution, and granted Concerned Citizens' motion to require the applicant to produce information that it may have concerning, “whether a [geographic] disproportionate impact on human health exists? Has Longview evaluated any means to reduce the disproportionate environmental impact from yet another power plant?” In reaching this determination, the Commission held that while the Department of Air Quality has specific expertise and authority over air quality matters, “the Commission will allow limited development of the issue at hearing, in the context of whether issuance of the siting certificate is in the public interest.”